Executive Summary – Enforcement Matter – Case No. 43397 Cadre Material Products, LLC RN105978191 Docket No. 2012-0206-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - WR, WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Cadre Material Products Brady Facility, located on County Road 220, 0.25 mile east from its junction with State Highway 71, Voca, McCulloch County

Type of Operation:

Sand mining operation

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but

does not wish to speak at Agenda.

Texas Register Publication Date: July 20, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,057

Amount Deferred for Expedited Settlement: \$2,410 Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$9,647 **Total Due to General Revenue:** \$0

Payment Plan: N/A **SEP Conditional Offset:** \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average by Default

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 43397 Cadre Material Products, LLC RN105978191 Docket No. 2012-0206-MLM-E

Investigation Information

Complaint Date(s): September 16, 2011

Complaint Information: Alleged that the sand mine did not have the proper

wastewater permits with regard to retention ponds.

Date(s) of Investigation: October 13, 2011 Date(s) of NOE(s): November 22, 2011

Violation Information

- 1. Failed to obtain authorization prior to discharging industrial wastewater into or adjacent to water in the state. Specifically, the process water pond was constructed in a pre-existing pond located on an unnamed tributary of Tiger Creek [30 Tex. Admin. Code § 321.66 and Tex. Water Code § 26.121(a)(1)].
- 2. Failed to develop and implement a storm water pollution prevention plan ("SWP3") according to the requirements of the Multi-Sector General Permit ("MSGP") before submitting a notice of intent ("NOI") for permit coverage. Specifically, the SWP3 in place at the Facility was for the construction general permit and did not meet the requirements for the MSGP [30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System MSGP No. TXR05AC07, Part II, Section C.4].
- 3. Failed to obtain authorization prior to impounding, diverting, or using state water. Specifically, the Respondent was diverting state water from at least one on-channel water source for process use without authorization [30 Tex. Admin. Code § 297.11 and Tex. Water Code § 11.121].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On November 14, 2011, the Respondent submitted a NOI and certified that a SWP3 had been developed and implemented at the Facility.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 90 days, submit a report to the Commission, documenting the progress of the corrective actions that are planned and/or have been completed to re-locate the process pond to an area that is not on a state watercourse;
- b. Within 180 days, complete the re-location of the process pond to an area that is not on a state watercourse; and
- c. Within 195 days, submit written certification demonstrating compliance.

Executive Summary – Enforcement Matter – Case No. 43397 Cadre Material Products, LLC RN105978191 Docket No. 2012-0206-MLM-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Lanae Foard, Enforcement Division,

Enforcement Team 1, MC 169, (512) 239-2554; Debra Barber, Enforcement Division,

MC 219, (512) 239-0412.

TCEQ SEP Coordinator: N/A

Respondent: Kimberly Bowron, Vice President-Administration, Cadre Material

Products, LLC, 11757 Katy Freewann, Suite 1050, Houston, Texas 77079

Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW) Policy Revision 3 (September 2011) PCW Revision August 3, 2011 Assigned 5-Dec-2011 Screening 19-Dec-2011 **EPA Due** PCW 24-Jan-2012 RESPONDENT/FACILITY INFORMATION Respondent Cadre Material Products, LLC (PCW No. 1) Reg. Ent. Ref. No. RN105978191 Major/Minor Source Minor Facility/Site Region 8-San Angelo **CASE INFORMATION** Enf./Case ID No. 43397 No. of Violations 2 Docket No. 2012-0206-MLM-E Order Type 1660 Media Program(s) Water Quality Government/Non-Profit No Multi-Media Enf. Coordinator Lanae Foard EC's Team Enforcement Team 1 Admin. Penalty \$ Limit Minimum Maximum Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) \$5,000 Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. **Compliance History** Subtotals 2, 3, & 7 \$0 0.0% Enhancement No adjustment for compliance history. Notes Subtotal 4 \$0 Culpability No 0.0% Enhancement The Respondent does not meet the culpability criteria. Notes \$312 Good Faith Effort to Comply Total Adjustments Subtotal 5 \$2,500 **Economic Benefit** 50.0% Enhancement* Subtotal 6 Total EB Amounts Capped at the Total EB \$ Amount \$49,169 Approx. Cost of Compliance \$778,500 SUM OF SUBTOTALS 1-7 \$7,188 Final Subtotal \$0 OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment Reduces or enhances the Final Subtotal by the indicated percentage. Notes \$7,188 Final Penalty Amount \$7,188 STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

Deferral offered for expedited settlement.

PAYABLE PENALTY

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g.

Notes

20.0%

20 for 20% reduction.)

Reduction

Adjustment

-\$1,437

\$5,751

Docket No. 2012-0206-MLM-E

Policy Revision 3 (September 2011) PCW Revision August 3, 2011

PCW

Respondent Cadre Material Products, LLC (PCW No. 1)

Case ID No. 43397

Reg. Ent. Reference No. RN105978191 Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Component	Number of	E	nter Number Here	Adjust
NOVs	Written notices of violation ("NOVs") with same or similar violations as the current enforcement action (<i>number of NOVs meeting criteria</i>)	those in	0	0%
	Other written NOVs		0	0%
	Any agreed final enforcement orders containing a denial of liability (no orders meeting criteria)	umber of	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement without a denial of liability, or default orders of this state or the government, or any final prohibitory emergency orders issued by the con	e federal	0	0%
Judgments and Consent	Any non-adjudicated final court judgments or consent decrees con denial of liability of this state or the federal government (number of jud or consent decrees meeting criteria)	-	0	0%
Decrees	Any adjudicated final court judgments and default judgments, or non-ad final court judgments or consent decrees without a denial of liability, of or the federal government		0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>nu counts</i>)	ımber of	0	0%
Emissions	Chronic excessive emissions events (number of events)		0	0%
Audits	Letters notifying the executive director of an intended audit conducted to Texas Environmental, Health, and Safety Audit Privilege Act, 74th Le 1995 (number of audits for which notices were submitted)		0	0%
	Disclosures of violations under the Texas Environmental, Health, an Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which were disclosed</i>)	· · · · ·	0	0%
		Pleas	e Enter Yes or No	
	Environmental management systems in place for one year or more		No	0%
Other	Voluntary on-site compliance assessments conducted by the executive under a special assistance program	director	No	0%
	Participation in a voluntary pollution reduction program		No	0%
	Early compliance with, or offer of a product that meets future state of government environmental requirements	or federal	No	0%
		nent Perc	entage (Sub	total 2
eat Violator (nent Perc	entage (Subi	total 3
npliance Histo	ry Person Classification (Subtotal 7)			
Average Pe	rformer Adjustn	nent Perc	entage (Subi	total 7
npliance Histo	ry Summary			
Compliance History Notes	No adjustment for compliance history.			
	Total Compliance History Adjustment Percei	ntage (Su	ıbtotals 2, 3	3, & 7)

Screenin	g Date 19-Dec-2011	Docket No. 2012-0206-MLM-E	PCW
	ondent Cadre Material P	roducts, LLC (PCW No. 1)	Policy Revision 3 (September 2011)
	ID No. 43397		PCW Revision August 3, 2011
	ce No. RN105978191		
	atute] Water Quality linator Lanae Foard		
Violation	f		
	Cite(s)		
Ruie	30 Tex. /	Admin. Code § 321.66 and Tex. Water Code § 26.121(a)(1)
	Failed to obtai	n authorization prior to discharging industrial wastewater	into or
Violation Des	adjacent to wat	er in the state, as documented during an investigation co	nducted
Violation Des	on October 13,	2011. Specifically, the process water pond was constructing pond located on an unnamed tributary of Tiger Creek	
	pre-exis	ting pond-located on an dimanted thoutary of riger creek	
	<u> </u>		
		Base	Penalty \$25,000
>> Environmental,	Property and Huma	n Health Matrix	
		Harm	
OR	Release Major Actual	Moderate Minor	
	Potential	Percent 0.0%	
>>Programmatic M	atrix		
Fals	fication Major	Moderate Minor Percent 5.0%	
<u> </u>	XL_		
Matrix	1009	% of the rule requirement was not met.	
Notes			
			\$23,750
		Adjustment	323,730]
			\$1,250
Violation Events	· · · · · · · · · · · · · · · · · · ·		
VIOIATION EVENTS			
Nu	mber of Violation Events	3 Sometimes of State	ays
	daily weekly		
	monthly	×	
	only one quarterly	Violation Base	Penalty \$3,750
<i>"</i> "	semiannual _		,
	annual		
	single event	المستعيدة	
		ommended from the investigation date (October 13, 2011)	to the
1 1111		creening date (December 19, 2011).	r co che
<u>L</u>			
Good Faith Efforts t	o Comply	0.0% Reduction	\$0
		Before NOV NOV to EDPRP/Settlement Offer	
	Extraordinary		
	Ordinary		
	N/AI	X (mark with x)	
	Notes	he Respondent does not meet the good faith criteria for	
	1401.03	this violation.	
	<u> </u>		
	•	Violation 9	Subtotal \$3,750
Economic Benefit (E	B) for this violation	Statutory Limit	Гest
	Estimated EB Amount	\$49,154 Violation Final Penal	ty Total \$5,625
		This violation Final Assessed Penalty (adjusted for	r limits) \$5,625
		No. 4. Land Street Street Street Street	

	E	conomic	Benefit	Wo	rksheet		Maria (
Respondent	Cadre Materia	l Products, LLC (F	CW No. 1)				
Case ID No.							
Reg. Ent. Reference No.							
	Water Quality						Years of
Violation No.	- ,					Percent Interest	Depreciation
violativii ivo.	Ateni 1918		NEED WAR	18 13		5.0	15
	Ttem Cost	Date Required	Final Date	Yrs.	Interest Saved	Onetime Costs	EB Amount
Item Description		200 SW - 3 C - 2 C					
trein Description	NO COMMINS OF \$		II AN E O COMP				2.17.4808039470304725
Delayed Costs		ha lightee	wish it ing o			emerganist escului	and wheel had to
Equipment				0.00	\$0	\$0	\$0
Buildings	***************************************			0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal		·		0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$775,000	13-Oct-2011	18-Jan-2013	1.27	\$49,154	n/a	\$49.154
Notes for DELAYED costs	n 	equired is the inv	estigation date.	Final o	date is the expecte	ot on a state waterco	e
Avoided Costs Disposal	ANNUAL	IZE [1] avoided	costs before e	0.00	\$0	for one-time avoid	\$0
Personnei				0.00	\$0 \$0	\$0	\$0
nspection/Reporting/Sampling		2 2 2 2	100	0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
				1			
Notes for AVOIDED costs							
Notes for AVOIDED COSES							
				1 53			
Approx. Cost of Compliance		\$775,000			TOTAL		\$49,154
Approx. Cost of Comphance		\$773,000			I OTAL		<u> </u>

Scree	ning Date 19-Dec-2011	Docket No. 2012-0206-MLM-E	PCW
-1	spondent Cadre Material	Products, LLC (PCW No. 1)	Policy Revision 3 (September 2011)
	se ID No. 43397		PCW Revision August 3, 2011
	ence No. RN105978191		
	[Statute] Water Quality		
	ordinator Lanae Foard on Number 2		
	tule Cite(s)		
	- 11	min. Code § 305.125(1) and Texas Pollutant Discharge Elimi	nation .
	System Multi-	Sector General Permit ("MSGP") No. TXR05AC07, Part II, Se	ection C.4
	Failed to deve	lop and implement a storm water pollution prevention plan (("SWP3")
		the requirements of the MSGP before submitting a notice of	
Violation		ermit coverage, as documented during an investigation cond	
		3, 2011. Specifically, the SWP3 in place at the Facility was for a general permit and did not meet the requirements for the	
	Construction	general permit and diagnot intest the requirements for the	
		Rase	Penalty \$25,000
		Dast	225,000
>> Environment	al, Property and Hum		
	Release Major	Harm Moderate Minor	- The state of the
OR	Release Major Actual	Ploderate Palito	000000
• •	Potential	Percent 5.0%	MATA-Veri
			1000
>>Programmati			
F	Falsification Major	Moderate Minor Percent 0.0%	
		refeer 0.0%	No.
	Human health or the enviro	nment will or could be exposed to significant amounts of pol	lutants
Matrix w		that are protective of human health or environmental recep	
Notes		result of this violation.	
		Adjustment	\$23,750
			\$1,250
			x x :: x
Violation Events			
	Number of Violation Events	1 32 Number of violation d	lays
			The state of the s
	daily		***************************************
	weekly		W.
,	monthly quarterly	νiolation Base	Penalty \$1,250
	with an x semiannual		
	annual		Water Control
	single event		www
r -			
C	ne quarterly event is recomm	nended from the investigation date (October 13, 2011) to th	e date of
		compliance (November 14, 2011).	<u> </u>
<u> </u>			
Good Faith Effor	s to Comply	25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer	\$312
	Extraordinary	Before NOV NOV to EDPRP/Settlement Offer	
	Ordinary	X	
	N/A	(mark with x)	7.7
	,	The Descendant achieved compliance on November 14	THE PARTY OF THE P
	Notes	The Respondent achieved compliance on November 14, 2011.	
		Violation S	Subtotal \$938
Economic Benefi	(EB) for this violation	n Statutory Limit	Test
	Estimated EB Amount	\$15 Violation Final Penal	Ity Total \$1,563
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		This violation Final Assessed Penalty (adjusted fo	r limits) \$1,563

leg. Ent. Reference No. Media Violation No.	Water Quality					Percent Interest	Years of Depreciation
violation ivo	into					5.0	1!
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$					THE METER AND ADDRESS OF THE STATE OF THE ST	
Delayed Costs	WARA TH	·# #JJZB =	Hetali.				tivizka
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	* \$0
Engineering/construction			100	0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed) Notes for DELAYED costs	\$3,500 Estimated co			0.09 WP3 an	\$15 d submit a new No	n/a OI for the MSGP. Da	\$15
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling	Estimated co	st to develop and the inve	implement a S\ stigation date.	0.09 WP3 an Final denterin 0.00 0.00 0.00	\$15 d submit a new No ate is the date of o	n/a OI for the MSGP. Da	\$15 ate required is
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel	Estimated co	st to develop and the inve	implement a S\ stigation date.	WP3 an Final denterin 0.00	\$15 d submit a new Notate is the date of or spitem (except to \$0 \$0 \$0	n/a DI for the MSGP. Date of t	\$15 ate required is led costs) \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Estimated co	st to develop and the inve	implement a S\ stigation date.	0.09 WP3 an Final dentering 0.00 0.00 0.00 0.00	\$15 d submit a new Note to the date of control of the date	n/a DI for the MSGP. Date to mpliance. For one-time avoid \$0 \$0 \$0 \$0 \$0	\$15 ate required is led costs) \$0 \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	Estimated co	st to develop and the inve	implement a S\ stigation date.	0.09 WP3 an Final dentering 0.00 0.00 0.00 0.00 0.00 0.00 0.00	\$15 d submit a new No ate is the date of control of the date of the da	n/a DI for the MSGP. Date of t	\$15 ate required is led costs
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Estimated co	st to develop and the inve	implement a S\ stigation date.	0.09 WP3 an Final d enterin 0.00 0.00 0.00 0.00 0.00 0.00	\$15 d submit a new Note to stee the date of control of the date of the	n/a DI for the MSGP. Date ompliance. For one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$15 ate required is led costs

Penalty Calculation Worksheet (PCW) Policy Revision 3 (September 2011) PCW Revision August 3, 2011 Assigned 5-Dec-2011 Screening 19-Dec-2011 **EPA Due** PCW 24-Jan-2012 RESPONDENT/FACILITY INFORMATION Respondent Cadre Material Products, LLC (PCW No. 2) Reg. Ent. Ref. No. RN105978191 Facility/Site Region 8-San Angelo Major/Minor Source Minor **CASE INFORMATION** Enf./Case ID No. 43397 No. of Violations 1 Docket No. 2012-0206-MLM-E Order Type 1660 Government/Non-Profit No Media Program(s) Water Rights Multi-Media Enf. Coordinator Lanae Foard EC's Team Enforcement Team 1 \$5,000 Admin. Penalty \$ Limit Minimum Maximum Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) \$750 Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. \$0 **Compliance History** 0.0% Enhancement Subtotals 2, 3, & 7 Notes No adjustment for compliance history. \$0 Culpability No 0.0% Enhancement Subtotal 4 The Respondent does not meet the culpability criteria. Notes \$0 Good Faith Effort to Comply Total Adjustments Subtotal 5 0.0% Enhancement* Subtotal 6 \$0 **Economic Benefit** Total EB Amounts *Capped at the Total EB \$ Amount Approx. Cost of Compliance SUM OF SUBTOTALS 1-7 Final Subtotal \$750 OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment \$4,119 Reduces or enhances the Final Subtotal by the indicated percentage Recommended enhancement to capture the avoided cost associated with the violation. An additional 500% enhancement was added because the Notes diversion occurred during exceptional drought conditions (U.S. Drought Monitor Level D4). Final Penalty Amount \$4,869 STATUTORY LIMIT ADJUSTMENT \$4,869 Final Assessed Penalty

20.0%

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

Reduction

Adjustment

-\$973

\$3,896

PCW

Respondent Cadre Material Products, LLC (PCW No. 2)

Case ID No. 43397

Reg. Ent. Reference No. RN105978191

Media [Statute] Water Rights Enf. Coordinator Lanae Foard

Policy Revision 3 (September 2011) PCW Revision August 3, 2011

Compliance History Worksheet

Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
Other written NOVs	0	0%
Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Any criminal convictions of this state or the federal government (number of counts)	0	0%
Chronic excessive emissions events (number of events)	0	0%
Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Environmental management systems in place for one year or more	No	0%
Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
Participation in a voluntary pollution reduction program	No	0%
Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	centage (Su	ıbtotal 2)
000 000 000 000 000 000 000 000 000 00		-64-4-13
Adjustment Per	centage (Su	ibtotai 3
ry Person Classification (Subtotal 7)		
rformer Adjustment Per	centage (Su	ibtotal 7)
ry Summary		
No adjustment for compliance history.		
	the current enforcement action (number of NOVs meeting criteria) Other written NOVs Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government (number of counts) Any criminal convictions of this state or the federal government (number of counts) Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) Ple Environmental management systems in place for one year or more Voluntary on-site compliance assessments conducted by the executive director under a special assistance program Participation in a voluntary pollution reduction program Early compliance with, or offer of a product that meets future state or federal government environmental requirements Adjustment Per Try Person Classification (Subtotal 7) Adjustment Per Try Summary	the current enforcement action (number of NOVs meeting criteria) Other written NOVs Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government (number of judgements or the federal government or the federal government (number of judgements or the federal government or the federal government (number of judgements or the federal government) or judgements or the federal government (number of judgements or judgements or judgements or the federal government in judgements or judgeme

Screenin	g Date 1	9-Dec-2011	Docket No. 2012-0206-MLM-E		PCW
and the second s			oducts, LLC (PCW No. 2)		on 3 (September 2011)
Reg. Ent. Referen	ID No. 4			PCW I	Revision August 3, 2011
Media [St					
Enf. Coord					
Violation		1			
Rule	e Cite(s)	30 Tex	. Admin. Code § 297.11 and Tex. Water Code § 11.121		
Violation Des		as documen pecifically, the R	nuthorization prior to impounding, diverting, or using stated during an investigation conducted on October 13, 20 espondent was diverting state water from at least one of ater source for process use without authorization.	011.	
			Base	e Penalty	\$5,000
	_			•	
>> Environmental,	Property	y and Human	Health Matrix Harm		
	Release	Major I	Moderate Minor		
OR	Actual		Percent 0.0%		
	Potential		Percent 0.0%		
>>Programmatic M	latrix				
Falsi	ification		Moderate Minor Percent 5.0%		
<u> </u>	JL_	X	Percent 3.070		
Matrix Notes		100%	of the rule requirement was not met.		

			Adjustment	\$4,750	
					#250
				L	\$250
Violation Events			一种的"有"。 "姜"用明的"姜"等。		OC DEPT.
ħ)	mbar of Via	lation Events	3 Number of violation of	tave	***************************************
Nui	moer or vio	nation Events	3 2 Number of Violation C	idy5	
		daily weekly monthly quarterly semiannual annual single event	X Violation Base	· Penalty[\$750
Thre	ee monthly	events are recor scr	nmended from the investigation date (October 13, 2011 eening date (December 19, 2011).) to the	A COLUMN TO THE STATE OF THE ST
Good Faith Efforts t		xtraordinary Ordinary N/A	e Respondent does not meet the good faith criteria for this violation.	18 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8	\$0
			Violation	Subtotal	\$750
Economic Benefit (E	EB) for th	nis violation	Statutory Limit	Test	
_		EB Amount	\$369 Violation Final Pena	Ity Total	\$4,869
	_500000			_	
	235		This violation Final Assessed Penalty (adjusted fo	, mnits)	\$4,869

Cadre Materia 3397 N105978191 Vater Rights	CONOMIC I Products, LLC (F	00000000 F 000000000000000000000000000				V 1980 XV 5-1
3397 kN105978191 Vater Rights Item Cost	•	CW 100. 2)				
N105978191 Vater Rights Item Cost	71%. URL 5-1988-1-58-1888-1-1883-1-18				FG - V/ 845811	
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Item Cost	*** ** \$ **** * ********					Years of
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TOTAL PROPERTIES AND AND AND	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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3 1897g - 18 . B					. Verena	
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		8 3 5	0.00	\$0	\$0	\$0
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	Ji			40		
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Compliance History Report

Customer/Respondent/Owner-Operator: CN603526872 Cadre Material Products, LLC Classification: Rating: 3.01

Regulated Entity: RN105978191 CADRE MATERIAL PRODUCTS Classification

RN105978191 CADRE MATERIAL PRODUCTS Classification: AVERAGE Site Rating: 3.01

BRADY FACILITY BY DEFAULT

ID Number(s): STORMWATER PERMIT TXR15QJ75

STORMWATER PERMIT TXR05AC07

COUNTY ROAD 220 .25 MILE EAST FROM JUNCTION

WITH HIGHWAY 71

TCEQ Region: REGION 08 - SAN ANGELO

Date Compliance History Prepared: March 19, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 19, 2007 to March 19, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Lanae Foard Phone: (512) 239-2554

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?

2. Has there been a (known) change in ownership/operator of the site during the compliance period?

3. If YES, who is the current owner/operator?

4. If YES, who was/were the prior owner(s)/operator(s)? N/A

5. If YES, when did the change(s) in owner or operator N/A

occur?

Location:

6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site:

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

N/A

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	8	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
CADRE MATERIAL PRODUCTS,	§	
LLC	§	
RN105978191	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2012-0206-MLM-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Cadre Material Products, LLC ("the Respondent") under the authority of Tex. Water Code chs. 7, 11, and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

- 1. The Respondent owns and operates a sand mining operation located on County Road 220, 0.25 mile east from it's junction with State Highway 71 in Voca, McCulloch County, Texas (the "Facility").
- 2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
- 3. The Respondent's Facility adjoins, is contiguous with or surrounds state water as defined in Tex. Water Code § 11.021 and 30 Tex. Admin. Code § 297.1(50).
- 4. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 5. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 27, 2011.

- 6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 7. An administrative penalty in the amount of Twelve Thousand Fifty-Seven Dollars (\$12,057) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand Six Hundred Forty-Seven Dollars (\$9,647) of the administrative penalty and Two Thousand Four Hundred Ten Dollars (\$2,410) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
- 8. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 9. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 10. The Executive Director recognizes that on November 14, 2011, the Respondent submitted a notice of intent ("NOI") and certified that a storm water pollution prevention plan ("SWP3") had been developed and implemented at the Facility.
- 11. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 12. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 13. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

- 1. Failed to obtain authorization prior to discharging industrial wastewater into or adjacent to water in the state, in violation of 30 Tex. Admin. Code § 321.66 and Tex. Water Code § 26.121(a)(1), as documented during an investigation conducted on October 13, 2011. Specifically, the process water pond was constructed in a pre-existing pond located on an unnamed tributary of Tiger Creek.
- 2. Failed to develop and implement a SWP3 according to the requirements of the Multi-Sector General Permit ("MSGP") before submitting an NOI for permit coverage, in

Cadre Material Products, LLC DOCKET NO. 2012-0206-MLM-E Page 3

violation of 30 Tex. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System MSGP No. TXR05AC07, Part II, Section C.4, as documented during an investigation conducted on October 13, 2011. Specifically, the SWP3 in place at the Facility was for the construction general permit and did not meet the requirements for the MSGP.

3. Failed to obtain authorization prior to impounding, diverting, or using state water, in violation of 30 Tex. Admin. Code § 297.11 and Tex. Water Code § 11.121, as documented during an investigation conducted on October 13, 2011. Specifically, the Respondent was diverting state water from at least one on-channel water source for process use without authorization.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Cadre Material Products, LLC, Docket No. 2012-0206-MLM-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order, submit a report to the Commission, documenting the progress of the corrective actions that are planned and/or have been completed to re-locate the process pond to an area that is not on a state watercourse;
 - b. Within 180 days after the effective date of this Agreed Order, complete the relocation of the process pond to an area that is not on a state watercourse; and
 - c. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance

Cadre Material Products, LLC DOCKET NO. 2012-0206-MLM-E Page 4

with Ordering Provision No. 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

with a copy to:

Water Section, Manager San Angelo Regional Office Texas Commission on Environmental Quality 622 South Oakes, Suite K San Angelo, Texas 76903-7013

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

Cadre Material Products, LLC DOCKET NO. 2012-0206-MLM-E Page 5

- 6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- This Agreed Order may be executed in separate and multiple counterparts, which 7. together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
- 8. Under 30 Tex. Admin. Code § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	8/23/12 Date
agree to the attached Agreed Order on beh do agree to the terms and conditions specif	and the attached Agreed Order. I am authorized to alf of the entity indicated below my signature, and I lied therein. I further acknowledge that the TCEQ, in is materially relying on such representation.
 and/or failure to timely pay the penalty ame A negative impact on compliance his Greater scrutiny of any permit applie Referral of this case to the Attornadditional penalties, and/or attorned Increased penalties in any future end Automatic referral to the Attorney and TCEQ seeking other relief as authoric 	story; cations submitted; sey General's Office for contempt, injunctive relief, y fees, or to a collection agency; forcement actions; General's Office of any future enforcement actions;
Signature	S/17/2012
Name (Printed or typed) Authorized Representative of Cadre Material Products, LLC	VP. Administration Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.